



Mr. Gene Mayer

March 31, 1982

Margaret S. Shedd

Appraisal of a Limited Term Mineral Right Lease

This is in response to your memo of March 4, 1982, to Mr. Glenn Rigby requesting our opinion of whether a change in ownership occurs when there is an assignment or sublease of a mineral right with a remaining term of less than 35 years. According to your memo and the documents attached thereto, in 1954 the parties executed a lease of a rock quarry for 40 years (including 3 ten-year renewal options). In 1977, with 16 years remaining on the lease (including one remaining 10-year option) the lessee assigned the leasehold interest in the quarry to a third party. Specifically, you ask whether the 1977 transfer constitutes a change in ownership.

Section 61(a) of the Revenue and Taxation Code provides that: "The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities" constitutes a change in ownership. We are of the opinion that this section is not applicable to the instant case, since the lease term is for a specific term of years rather than for a term of "for so long as the rock materials can be extracted in paying quantities." Therefore, the general lease provisions provided in Section 61(c) and Rule 462(f) are applicable. In this regard, Rule 462(f)(2)(A)(ii) provides that: "The transfer, sublease, or assignment of a leasehold interest with a remaining term of less than 35 years (regardless of the original term of the lease)" is not a change in ownership.

In conclusion, the leasehold interest has a 1975 base year value, since the 1977 transfer does not constitute a change in ownership under the provisions of Rule 462(f)(2)(A)(ii). In arriving at this conclusion, we find it irrelevant that the

entire rock deposit may or may not be removed during the remaining term of the lease. However, the valuation principles set forth in Rule 469 (Mines and Quarries) should be utilized.

MSS:jlh

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Paul Crebbin
Mr. Verne Walton
Mr. William Jackson
Mr. Alan Dutra
Mr. John Bishop
Mr. Bill Beecroft
Mr. Ray Rothermel
Legal Section